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Docket No.: 1442.1018

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of:

Hisamitsu TAKAGI

Serial No. 10/790,883

Group Art Unit: 2614

Confirmation No. 4739

Filed: March 3, 2004

Examiner: Ramnandan P. Singh

For: MOBILE RADIO COMMUNICATION APPARATUS

RESPONSE TO NOTIFICATION OF NON-COMPLIANT APPEAL BRIEF UNDER 37 C.F.R § 41.37

Mail Stop Appeal Brief-Patents
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Sir:

This is in response to the Notification of Non-Compliant Appeal Brief mailed September 10, 2008, and having a period for response set to expire on October 10, 2008.

The Applicant has amended section III in response to the Notification of Non-Compliant Appeal Brief mailed September 10, 2008 and respectfully submit that the Appeal Brief is now in compliance with the requirements of 37 C.F.R § 41.37.

Should any additional fees be required or an overpayment of fees made, please debit or credit our Deposit Account No. 19-3935, as needed.



Serial No. 10/790,883
Group Art Unit: 2614
Examiner: Ramnandan P. Singh

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APPEAL BRIEF UNDER 37 C.F.R § 41.37

Mail Stop Appeal Brief-Patents
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Sir:

In a Notice of Appeal filed June 19, 2008, the applicant appealed the Examiner's February 19, 2008 Office Action finally rejecting claims 2-14 and 16-17. Appellant's Brief, together with the requisite fee set forth in 37 C.F.R. § 1.17, is submitted herewith.

Should any additional fees be required or an overpayment of fees made, please debit or credit our Deposit Account No. 19-3935, as needed.

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Serial No. 10/790,883
Group Art Unit: 2614
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I. REAL PARTY IN INTEREST (37 C.F.R. § 41.37(c)(1)(i))

The real party in interest is Fujitsu Limited, the assignee of the application.

II. RELATED APPEALS AND INTERFERENCES (37 C.F.R. § 41.37(c)(1)(ii))

Appellant, appellant's legal representative, and the assignee do not know of any prior or pending appeals, interferences or judicial proceedings which may be related to, directly affect or be directly affected by or have a bearing on the Board's decision in this appeal.

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III. STATUS OF CLAIMS (37 C.F.R. § 41.37(c)(1)(iii))

Claims 2-14 and 16-17 have been finally rejected and are on appeal.

Claims 1 and 15 are cancelled.

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IV. STATUS OF AMENDMENTS (37 C.F.R. § 41.37(c)(1)(iv))

Appellant's Response filed May 19, 2008 was entered for purposes of Appeal as indicated by the Advisory Action mailed June 5, 2008.

V. SUMMARY OF CLAIMED SUBJECT MATTER (37 C.F.R. § 41.37(c)(1)(v))

Independent claim 7 recites a mobile radio communication apparatus (Figs. 1-2 and 3A, for example) that includes a first housing (for example, fixed-side housing or first housing 120 in Fig. 1), a second housing (for example, moveable-side housing or second housing 110 in Fig. 1) that is foldable over the first housing 120, and a hinge part (for example, hinge part 130 in Fig. 1) that foldably connects the second housing 110 to the first housing 120 around a rotational center axis (for example, rotational center axis L1 in Fig. 2). The hinge part 130 includes a one touch opening part (for example, retaining ring 146, outer cam 50, lock 157, inner cam 160, compression spring 165, counter can 166, compression spring 170, free stop cams 172 and 176, and shaft 180 in Fig. 4) that automatically opens the second housing 110, relative to the first housing 120, around the rotational center axis L1 in a non-stop motion, from a folded state by a callable angle that enables a user to call without further opening the second housing 110 (Figs. 2, 3A, 15, and 21-24; p. 13, line 19 through p. 14, line 8). Furthermore, the hinge part 130 includes an auxiliary rotational part (for example, auxiliary rotational part 101 in Figs. 1 and 3A) that rotates the second housing 110 around an orthogonal shaft (for example, orthogonal shaft 105 in Fig. 3A) that is orthogonal to the rotational center axis L1 of the hinge part 130. Finally, the mobile radio communication apparatus 100 includes a flexible printed circuit board (for example, flexible printed circuit board 102 in Fig. 3A) wound around the orthogonal shaft 105, the flexible printed circuit board 102 electrically connecting the first and second housings 120 and 110 to each other.

Independent claim 12 recites a mobile radio communication apparatus (Figs. 1-2 and 3A, for example) that includes a first housing (for example, fixed-side housing or first housing 120 in Fig. 1), a second housing (for example, moveable-side housing or second housing 110 in Fig. 1) that is foldable over the first housing, and a hinge part (for example, hinge part 130 in Fig. 1) that foldably connects the second housing 110 to the first housing 120 around a rotational center axis (for example, rotational center axis L1 in Fig. 2). The hinge part 130 includes a one touch opening part (for example, retaining ring 146, outer cam 50, lock 157, inner cam 160, compression spring 165, counter can 166, compression spring 170, free stop cams 172 and 176, and shaft 180 in Fig. 4) that automatically opens the second housing 110, relative to the first housing 120, around the rotational center axis L1 in a non-stop motion, from a folded state by a callable angle that enables a user to call without further opening the second housing 110

(Figs. 2, 3A, 15, and 21-24; p. 13, line 19 through p. 14, line 8). The hinge part 130 further includes an auxiliary rotational part (for example, auxiliary rotational part 101 in Figs. 1 and 3A) that rotates the second housing 110 around an orthogonal shaft (for example, orthogonal shaft 105 in Fig. 3A) that is orthogonal to the rotational center axis L1 of the hinge part 130. The hinge part also includes a damper part (for example, damper part 210 in Fig. 2) that brakes an opening action of the second housing 110 by the one touch opening part.

Independent claim 14 recites a hinge part (for example, hinge part 130 of Fig. 1) that foldably connects, around a rotational center axis (for example, rotational center axis L1 in Fig. 2), a first housing (for example, first housing 120 in Fig. 2) that includes an input part (for example, input part 122 in Fig. 2), to a second housing (for example, second housing 110 in Fig. 2) that includes a speaker (for example, speaker 114 in Fig. 1) and a display part (for example, LCD screen 112 in Fig. 1). The hinge part 130 includes a one touch opening part (for example, retaining ring 146, outer cam 50, lock 157, inner cam 160, compression spring 165, counter can 166, compression spring 170, free stop cams 172 and 176, and shaft 180 in Fig. 4) that automatically opens the second housing 110, relative to the first housing 120, around the rotational center axis L1 in a non-stop motion, from a folded state by a callable angle that enables a user to call without further opening the second housing 110 (Figs. 2, 3A, 15, and 21-24; p. 13, line 19 through p. 14, line 8). The hinge part 130 further includes an auxiliary rotational part (for example, auxiliary rotational part 101 in Figs. 1 and 3A) that rotates the second housing 110 around an orthogonal shaft (for example, orthogonal shaft 105 in Fig. 3A) that is orthogonal to the rotational center axis L1 of the hinge part 130. The hinge part also includes a damper part (for example, damper part 210 in Fig. 2) that brakes an opening action of the second housing 110 by the one touch opening part.

Independent claim 16 recites a mobile radio communication apparatus (Figs. 1-2 and 3A, for example) that includes a first housing (for example, fixed-side housing or first housing 120 in Fig. 1), a second housing (for example, moveable-side housing or second housing 110 in Fig. 1) foldably connected to the first housing 120 around a rotational center axis (for example, rotational center axis L1 in Fig. 2), and a hinge part (for example, hinge part 130 in Fig. 1) that foldably connects the second housing 110 to the first housing 120 around the rotational center axis L1. The hinge part 130 includes a one touch opening part (for example, retaining ring 146, outer cam 50, lock 157, inner cam 160, compression spring 165, counter can 166, compression

spring 170, free stop cams 172 and 176, and shaft 180 in Fig. 4) that automatically opens the second housing 110, relative to the first housing 120, around the rotational center axis L1 in a non-stop motion, from a folded state by a callable angle that enables a user to call without further opening the second housing 110 (Figs. 2, 3A, 15, and 21-24; p. 13, line 19 through p. 14, line 8). Furthermore, the hinge part 130 includes an auxiliary rotational part (for example, auxiliary rotational part 101 in Figs. 1 and 3A) that rotates the second housing 110 around an orthogonal shaft (for example, orthogonal shaft 105 in Fig. 3A) that is orthogonal to the rotational center axis L1.

None of the claims contain an element expressed as a means or step for performing a specified function without the recital of structure, material, or acts in support thereof.

VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL (37 C.F.R. § 41.37(c)(1)(vi))

Claims 12-14 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,731,912 ("Miyashita") in view of U.S. Patent No. 5,933,330 ("Beutler et al.").

Claims 2-11 and 16-17 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Miyashita in view of U.S. Patent No. 6,439,905 ("Andrews et al.").

VII. ARGUMENT

A. Review of the prior art

1. U.S. Patent No. 6,731,912 ("Miyashita")

Miyashita teaches at least two distinct physical embodiments of portable telephone. A first embodiment includes a one-piece casing 10 that includes an LCD display portion 12, a key entry portion 14, and a speech transmission portion 16B located at a lower edge portion of the casing 10 and formed as a movable portion 18 having a built-in microphone 20. See Figs. 1-3. The movable portion 18 may be displaced to have a desired angle by a one-touch operation.

A second embodiment of Miyashita teaches a folding portable telephone that includes two casings 50 and 52 and a hinge portion 54A that allows the two casings 50 and 52 to open and close to each other. A rotary shaft 54B allows rotation in a backward direction around the axis orthogonal to a rotation of axis of the hinge portion 54A. See Figs. 10-11.

2. U.S. Patent No. 5,933,330 ("Beutler et al.")

Beutler et al. teaches a portable radio telephone 100 having an upper housing 102 and a lower housing 108 that are rotatably connectable via a hinge 166 using a damper spring 370. See Figs. 1-4.

3. U.S. Patent No. 6,439,905 ("Andrews et al.")

Andrews et al. teaches an electronic device that includes a hinge for coupling a first part and a second part and an electrical connector for connecting electronic components housed in the first part and the second part. See Figs. 2-4.

B. Claims 12-14 are patentable over U.S. Patent No. 6,731,912 ("Miyashita") in view of U.S. Patent No. 5,933,330 ("Beutler et al.")

In the Final Office Action, the Examiner rejected claims 12-14 as being unpatentable over Miyashita in view of Beutler et al.

It is submitted that the Examiner failed to establish a prima facie case of obviousness because the references, either alone or in combination, do not teach or suggest all the features of claim 12 and because the Examiner has not provided a proper motivation to combine references.

Claim 12 recites "a hinge part that foldably connects said second housing to said first housing around a rotational center axis," wherein the hinge part includes "a one touch opening

part that automatically opens said second housing, relative to said first housing around said rotational center axis in a non-stop motion, from a folded state by a callable angle that enables a user to call without further opening the second housing.” In this manner, the invention of claim 12 provides the convenience of allowing a user to use a single hand to press a button in order to open a foldable portable communication apparatus, such as a cell phone, from a folded position to a call-ready position. Neither Miyashita nor Beutler et al. teaches or suggests this feature.

In the Final Office Action, the Examiner indicates that Miyashita teaches a one touch opening part that corresponds to the one touch opening part of claim 12. However, the Examiner’s interpretation of Miyashita is in error. In rejecting claim 12, the Examiner first refers to the embodiment of Miyashita shown in Figs. 10-11. Miyashita, as shown in Figs. 10-11, illustrates a mobile radio communication apparatus that includes a first casing 50 that is foldable with respect to a second casing 52 around a hinge part 54A. However, Miyashita does not disclose that the hinge part 54A includes a one touch opening part that opens the first casing 50 relative to the second casing 52 in a non-stop motion from a folded state by a callable angle that enables a user to call without further opening the second housing. In fact, Miyashita actually teaches away from the invention of claim 12 by requiring a manual opening of first casing 50 with respect to second casing 52.

Furthermore, in rejecting claim 12, the Examiner also makes reference to a separate embodiment of Miyashita, illustrated in Fig. 8, and indicates that Miyashita discloses automatically opening the first casing 50 from the second casing 52 around the rotational center of axis in a non-stop motion. The Examiner indicates that the movable portion 18 of Miyashita corresponds to a second housing that rotates, from a folded state around a rotational center axis relative to a first housing, into a callable position. However, the movable portion 18 of Miyashita clearly does not correspond to the second housing of claim 12. Likewise, the movable portion 18 of Miyashita clearly does not correspond either of the casings 50 or 52 of Figs. 10-11 of Miyashita. Instead, the movable portion 18 of Miyashita is merely a speech transmission portion 16B located at a lower edge portion of the one-piece casing 10. The movable portion 18 of Miyashita is not in a folded state with respect to the casing 10 (see Fig. 8 of Miyashita). As such, it follows that the movable portion 18 of Miyashita does not rotate around a rotational center axis of two folded housings. Therefore, the movable portion 18 of Miyashita does not correspond to the second housing of claim 12, such that a one touch opening part opens a second housing from a folded state around a rotational center axis relative to a first housing.

Furthermore, the Examiner has provided no motivation for combining the embodiment of Miyashita illustrated in Figs. 10-11 and the separate embodiment of Miyashita illustrated in Fig. 8. However, as discussed above, even if these embodiments of Miyashita were combined, the invention of claim 12 would not result.

Beutler et al. has been cited by the Examiner merely as an example of a damper in a portable phone apparatus and fails to make up for the deficiencies in Miyashita discussed above.

Miyashita and Beutler et al., alone or in combination, do not discuss or suggest all of the features recited in claim 12, so that claim 12 is patentable over the prior art. Furthermore, the Examiner has not provided a motivation for combining the various embodiments disclosed in Miyashita. Therefore, it is submitted that claim 12 is patentable over the prior art. Claim 13 depends from claim 12 and, therefore, is patentable over the prior art for the same reasons as claim 12.

It is submitted that the Examiner failed to establish a prima facie case of obviousness because the references, either alone or in combination, do not teach or suggest all the features of claim 14 and because the Examiner has not provided a proper motivation to combine references.

Claim 14 recites a hinge part that includes "a one touch opening part that automatically opens the second housing, relative to said first housing around said rotational center axis in a non-stop motion, from a folded state by a callable angle that enables a user to call without further opening the second housing."

Therefore, Miyashita and Beutler et al., alone or in combination, do not discuss or suggest all of the features recited in claim 14. Furthermore, the Examiner has not provided a motivation for combining the various embodiments disclosed in Miyashita. Therefore, it is submitted that claim 14 is patentable over the prior art.

C. Claims 2-11 and 16-17 are patentable over U.S. Patent No. 6,731,912 ("Miyashita") in view of U.S. Patent No. 6,439,905 ("Andrews et al.")

In the Final Office Action, the Examiner rejected claims 2-11 and 16-17 as being unpatentable over Miyashita in view of Andrews et al.

It is submitted that the Examiner failed to establish a prima facie case of obviousness because the references, either alone or in combination, do not teach or suggest all the features of claim 7 and because the Examiner has not provided a proper motivation to combine

references.

Claim 7 recites "a hinge part that foldably connects said second housing to said first housing around a rotational center axis, the hinge part including a one touch opening part that automatically opens said second housing, relative to said first housing around said rotational center axis in a non-stop motion, from a folded state by a callable angle that enables a user to call without further opening the second housing." In this manner, the invention of claim 7 provides the convenience of allowing a user to use a single hand to press a button in order to open a foldable portable communication apparatus, such as a cell phone, from a folded position to a call-ready position. Neither Miyashita nor Andrews et al. teaches or suggests this feature.

In the Final Office Action, the Examiner indicates that Miyashita teaches a one touch opening part that corresponds to the one touch opening part of claim 7. However, the Examiner's interpretation of Miyashita is in error. In rejecting claim 7, the Examiner first refers to the embodiment of Miyashita shown in Figs. 10-11. Miyashita, as shown in Figs. 10-11, illustrates a mobile radio communication apparatus that includes a first casing 50 that is foldable with respect to a second casing 52 around a hinge part 54A. However, Miyashita does not disclose that the hinge part 54A includes a one touch opening part that opens the first casing 50 relative to the second casing 52 in a non-stop motion from a folded state by a callable angle that enables a user to call without further opening the second housing. In fact, Miyashita actually teaches away from the invention of claim 7 by requiring a manual opening of first casing 50 with respect to second casing 52.

Furthermore, in rejecting claim 7, the Examiner also makes reference to a separate embodiment of Miyashita, illustrated in Fig. 8, and indicates that Miyashita discloses automatically opening the first casing 50 from the second casing 52 around the rotational center of axis in a non-stop motion. The Examiner indicates that the movable portion 18 of Miyashita corresponds to a second housing that rotates, from a folded state around a rotational center axis relative to a first housing, into a callable position. However, the movable portion 18 of Miyashita clearly does not correspond to the second housing of claim 7. Likewise, the movable portion 18 of Miyashita clearly does not correspond either of the casings 50 or 52 of Figs. 10-11 of Miyashita. Instead, the movable portion 18 of Miyashita is merely a speech transmission portion 16B located at a lower edge portion of the one-piece casing 10. The movable portion 18 of Miyashita is not in a folded state with respect to the casing 10 (see Fig. 8 of Miyashita). As such,

it follows that the movable portion 18 of Miyashita does not rotate around a rotational center axis of two folded housings. Therefore, the movable portion 18 of Miyashita does not correspond to the second housing of claim 7, such that a one touch opening part opens a second housing from a folded state around a rotational center axis relative to a first housing.

Furthermore, the Examiner has provided no motivation for combining the embodiment of Miyashita illustrated in Figs. 10-11 and the separate embodiment of Miyashita illustrated in Fig. 8. However, as discussed above, even if these embodiments of Miyashita were combined, the invention of claim 7 would not result.

Andrews et al. has been cited by the Examiner merely as an example of a printed circuit board in a portable phone apparatus and fails to make up for the deficiencies in Miyashita discussed above.

Miyashita and Andrews et al., alone or in combination, do not discuss or suggest all of the features recited in claim 7, so that claim 7 is patentable over the prior art. Furthermore, the Examiner has not provided a motivation for combining the various embodiments disclosed in Miyashita. Therefore, it is submitted that claim 7 is patentable over the prior art. Claims 2-6 and 8-11 depend from claim 7 and, therefore, are patentable over the prior art for the same reasons as claim 7.

It is submitted that the Examiner failed to establish a prima facie case of obviousness because the references, either alone or in combination, do not teach or suggest all the features of claim 16 and because the Examiner has not provided a proper motivation to combine references.

Claim 16 recites "a hinge part that foldably connects said second housing to said first housing around a rotational center axis, the hinge part including a one touch opening part that automatically opens said second housing, relative to said first housing around said rotational center axis in a non-stop motion, from a folded state by a callable angle that enables a user to call without further opening the second housing."

Therefore, Miyashita and Andrews et al., alone or in combination, do not discuss or suggest all of the features recited in claim 16. Furthermore, the Examiner has not provided a motivation for combining the various embodiments disclosed in Miyashita. Therefore, it is submitted that claim 16 is patentable over the prior art. Claim 17 depends from claim 16 and, therefore, is patentable over the prior art for the same reasons as claim 16.

D. CONCLUSION


In summary, Applicants submit that claims 2-14 and 16-17 patentably distinguish over the prior art.

Reversal of the Examiner's rejection is respectfully requested.

Respectfully submitted,

STAAS & HALSEY LLP

Date: 9-23-08

By: 

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VIII. CLAIMS APPENDIX (37 C.F.R. § 41.37(c)(1)(viii))

What is claimed is:

1. (Cancelled)
2. (Previously Presented) A mobile radio communication apparatus according to claim 7, wherein said auxiliary rotational part includes a cam part that clicks and provides a semifixed state whenever said second housing rotates by a predetermined angle around the orthogonal shaft.
3. (Previously Presented) A mobile radio communication apparatus according to claim 7, further comprising a first reinforcing member that covers an outer periphery of the orthogonal shaft.
4. (Original) A mobile radio communication apparatus according to claim 3, wherein said second housing is inserted rotatably into said first reinforcing member.
5. (Original) A mobile radio communication apparatus according to claim 4, further comprising a second reinforcing member at an insertion part at which said second housing is inserted into said first reinforcing member, said second reinforcing member being provided in said second housing, and said second reinforcing member reinforcing the orthogonal shaft, and being fixed onto the orthogonal shaft with said second housing.
6. (Previously Presented) A mobile radio communication apparatus according to claim 7, wherein said hinge part includes an approximately cylindrical hinge cover having a slit that extends along the rotational center axis, and
wherein the orthogonal shaft is inserted into the slit and said auxiliary rotational part is provided on the hinge cover.

7. (Previously Presented) A mobile radio communication apparatus, comprising:
a first housing;
a second housing foldable over said first housing;
a hinge part that foldably connects said second housing to said first housing around a rotational center axis, the hinge part including a one touch opening part that automatically opens said second housing, relative to said first housing around said rotational center axis in a non-stop motion, from a folded state by a callable angle that enables a user to call without further opening the second housing, and an auxiliary rotational part that rotates said second housing around an orthogonal shaft orthogonal to the rotational center axis of said hinge part; and
a flexible printed circuit board wound around the orthogonal shaft, said flexible printed circuit board electrically connecting said first and second housings to each other.
8. (Original) A mobile radio communication apparatus according to claim 7, wherein the flexible printed circuit board is wound around the rotational center axis of said hinge part.
9. (Previously Presented) A mobile radio communication apparatus according to claim 7, wherein said hinge part includes a free stop part that maintains said second housing at an angle different from the callable angle relative to said first housing.
10. (Original) A mobile radio communication apparatus according to claim 9, wherein said free stop part does not work while said second housing that has been opened by said one touch opening part is being folded.
11. (Original) A mobile radio communication apparatus according to claim 9, wherein said free stop part works while said second housing that has been opened by said one touch opening part is being folded.

12. (Previously Presented) A mobile radio communication apparatus, comprising:
a first housing;
a second housing foldable over said first housing; and
a hinge part that foldably connects said second housing to said first housing around a rotational center axis,
wherein said hinge part includes:
a one touch opening part that automatically opens said second housing, relative to said first housing around said rotational center axis in a non-stop motion, from a folded state by a callable angle that enables a user to call without further opening the second housing;
an auxiliary rotational part that rotates said second housing around an orthogonal shaft orthogonal to the rotational center axis of said hinge part; and
a damper part that brakes an opening action of said second housing by said one touch opening part.
13. (Original) A mobile radio communication apparatus according to claim 12, wherein said damper part brakes said second housing when said second housing forms a third angle or larger relative to said first housing.
14. (Previously Presented) A hinge part that foldably connects, around a rotational center axis, a first housing that includes an input part, to a second housing that includes a speaker and a display part, said hinge part comprising:
a one touch opening part that automatically opens the second housing, relative to said first housing around said rotational center axis in a non-stop motion, from a folded state by a callable angle that enables a user to call without further opening the second housing;
an auxiliary rotational part that rotates the second housing around an orthogonal shaft orthogonal to the rotational center axis of said one touch opening part; and
a damper part that brakes an opening action of said second housing by said one touch opening part.
15. (Cancelled)

16. (Previously Presented) A mobile radio communication apparatus comprising:
a first housing;
a second housing foldably connected to the first housing around a rotational center axis;
and
a hinge part that foldably connects said second housing to said first housing around a rotational center axis, the hinge part including a one touch opening part that automatically opens said second housing, relative to said first housing around said rotational center axis in a non-stop motion, from a folded state by a callable angle that enables a user to call without further opening the second housing, and an auxiliary rotational part that rotates the second housing around an orthogonal shaft orthogonal to the rotational center axis.

17. (Previously Presented) A mobile radio communication apparatus according to claim 16, further comprising a flexible printed circuit board wound around the orthogonal shaft, said flexible printed circuit board electrically connecting said first and second housings to each other.

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IX. EVIDENCE APPENDIX (37 C.F.R. § 41.37(c)(1)(ix))

Not applicable